IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S): Travis J. Parry

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GROUP ART UNIT: 2616

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EXAMINER: Alpus Hsu

SUBJECT: METHODS AND APPARATUS FOR SELECTING A WIRELESS LOCAL AREA NETWORK PORT AND ESTABLISHING COMMUNICATION THEREWITH

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APPELLANTS'/APPLICANTS' OPENING BRIEF ON APPEAL

1.   REAL PARTY IN INTEREST.

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holding, LLC.

2.   RELATED APPEALS AND INTERFERENCES.

There are no other appeals or interferences known to Appellants, Appellants' legal representative or the Assignee which will affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

3.   STATUS OF CLAIMS.

Claims 1-20 are pending and stand rejected. All pending claims are appealed.

4.   STATUS OF AMENDMENTS.

No amendments have been filed after the final action was entered. All previous amendments have been entered.

5.   SUMMARY OF CLAIMED SUBJECT MATTER.

Claim 1 recites a method for establishing wireless communication between a computer and a local area network that includes receiving a signal broadcast by at least one wireless port of the local area network. See, e.g., Specification, paragraph [0029]. The signal is evaluated to determine a connection protocol type of the at least one wireless port. See, e.g., Specification, paragraphs [0035] and [0043]. A connection protocol is

initiated based on the connection protocol type of the at least one wireless port. *See, e.g.,* Specification, paragraphs [0035] and [0043].

Claim 10 recites a method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network that includes receiving at least one signal. *See, e.g.,* Specification, paragraph [0029]. It is determined whether the at least one signal is being broadcast by a wireless port of the local area network. . *See, e.g.,* Specification, paragraph [0030]. The at least one signal is evaluated to determine a connection protocol type of the wireless port by which the at least one signal is being broadcast. *See, e.g.,* Specification, paragraphs [0035] and [0043]. If the at least one signal is being broadcast by a wireless port of the local area network, a connection protocol that is compatible with the wireless port is initiated. *See, e.g.,* Specification, paragraphs [0034], [0035] and [0043].

Claim 15 recites a workstation configured to select a connection protocol for establishing wireless communication with a local area network. *See, e.g.,* Specification, paragraph [0024]. The workstation includes at least one processor, at least one wireless network access device in communication with said at least one processor; and at least one storage medium. *See, e.g.,* Specification, paragraph [0024]. The storage medium is configured to communicate with the at least one processor. *See, e.g.,* Specification, paragraph [0024]. The storage medium comprises instructions stored in data format for implementing a method that includes causing the at least one wireless network access device to receive at least one signal being broadcast by a wireless port of the local area network and to communicate the at least one signal to the at least one processor in a format recognizable by the at least one processor. *See, e.g.,* Specification, paragraph [0029]. The at least one processor is enabled to evaluate the at least one signal to identify a connection protocol type of the wireless port from which the at least one signal was broadcast. *See, e.g.,* Specification, paragraphs [0035] and [0043]. The at least one

processor is instructed to select a connection protocol appropriate for establishing communication with the wireless port based on the connection protocol type thereof. *See, e.g.*, Specification, paragraphs [0035] and [0043].

6. GROUNDS FOR REJECTION TO BE REVIEWED.

A. Claims 1-3, 5-12, and 14 stand rejected under Section 102 as being anticipated by US Pub 2003/0081583 to Kowalski.

B. Claims 15-20 stand rejected under Section 10 as being unpatentable over US Pub 2003/0081583 to Kowalski.

B. Claims 4 and 13 were rejected under Section 103 as being unpatentable over US Pub 2003/0081583 to Kowalski in view of USPN 6,582,700 issued to Pinard.

7. ARGUMENT.

A. Ground For Rejection A – Claims 1-3, 5-12, and 14 stand rejected under Section 102 as being anticipated by US Pub 2003/0081583 to Kowalski.

Claim 1 directed to a method for establishing wireless communication between a computer and a local area network and recites the following:

1. receiving a signal broadcast by at least one wireless port of the local area network;
2. evaluating said signal to determine a connection protocol type of said at least one wireless port; and
3. initiating a connection protocol based on said connection protocol type of said at least one wireless port.

The Examiner asserts that Claim 1 is taught by Kowalski, paragraphs [0021], [0022], [0037], and [0038]. The Present application was filed January 7, 2002. Kowalski was later filed October 16, 2002 but claims the priority of a provisional application 60/345,863 filed October 26, 2001. The Appellant respectfully asserts that Kowalski's paragraphs [0021], [0022], [0037], and [0038] do not teach Claim 1. Furthermore, those paragraphs contain subject matter not supported by Kowalski's provisional application and therefore are not entitled to the earlier filing date of the provisional application. As such, Kowalski does not qualify as prior art with respect to the present application.

To explain, Kowalski's paragraphs [0021], [0022], [0037], and [0038] are reproduced as follows:

[0021] Accordingly, a method is provided for maintaining a hybrid coordinator (HC) in a wireless communications local area network (LAN). The method comprises: a first station (STA) seeking a guaranteed quality of service (QoS); establishing a basic service set (BSS) through association with an access point (AP); the AP selecting a HC from STAs in the BSS, for example, requesting the identity of the HC; the AP broadcasting the HC information to STAs in the BSS, for example, broadcasting the MAC address, support rates, and security capabilities associated with the HC; and, the STA initiating a transmission specification (TSPEC) with the first HC.

[0022] In one aspect of the method, when the STA sends a probe message to the AP requesting the identity of the HC, it also sends an indication as to whether it would be eligible to performing the HC task. Selecting a HC from STAs in the BSS either includes the AP sending a response to the STA with the identity of the HC, or if there is no HC, selecting a HC.

. . . .

[0037] FIG. 1 is a schematic block diagram illustrating the present invention system for maintaining a HC in a wireless communications LAN. The system 100 comprises a first HC 102 having a wireless communications port connected to a wireless medium 104 for managing guaranteed quality of service (QoS) functions. A first access point (AP) 106 selects the first HC 102. In this aspect of the system 100, the HC and AP functions are maintained by different entities. The first AP 106 has a wireless communications port connected to medium 104 to broadcast HC information. A first basic service set (BSS) 108 includes the first AP 106 and the first HC 102. At least a first station (STA) 110 in the first BSS 108 has a wireless

communications port connected to medium 104 for requesting a guaranteed quality of service (QoS) from the first AP 106 and for initiating a transmission specification (TSPEC) with the first HC 102. Note that two other STAs are shown, second STA 112 and third STA 114. However, the BSS 108 is not limited to any particular number of STAs.

[0038] The first AP 106 broadcasts HC information such as the media access control (MAC) address of the first HC 102 and its capabilities. The HC capabilities include the data rates supported and the security features.

These paragraphs mention nothing of receiving a signal broadcast by a wireless port of the local area network, evaluating that signal to determine connection protocol type of that wireless port, and then initiating a connection protocol based on that connection protocol type. The paragraphs briefly discuss sending a probe message to an access point to identify a hybrid coordinator with the access point returning a response identifying the hybrid coordinator. *See* Kowalski, paragraph [0022]. The paragraphs briefly discuss an STA that requests a guaranteed quality of service from an access point. The STA also initiates a transmission specification with a hybrid coordinator. *See* Kowalski, paragraph [0037]. The access point broadcasts the hardware address of the hybrid coordinator and its capabilities. *See* Kowalski, paragraph [0038].

In other words, Kowalski discusses an STA, a hybrid coordinator, and an access point that are separate and distinct wireless devices each having wireless ports. *See, e.g.,* Kowalski, Fig. 2 (STA 110, HC 102, and AP 106 are different devices communicating via wireless medium 104). Kowalski's access point sends information regarding the hybrid coordinator to a requesting STA. The STA uses that information to establish communication with the hybrid coordinator. With respect to Claim 1, the STA does not evaluate a signal received from a wireless port of the hybrid coordinator and then establish a connection with the hybrid coordinator using a protocol identified by that evaluation. The STA uses information received from an access point to identify and locate the hybrid coordinator.

Furthermore, the Appellant respect fully asks the Board to compare the paragraphs cited by the Examiner with the text of the provisional application 60/345,863. The Appellant maintains that the cited paragraphs contain matter that is new and thus not entitled to the filing date of the provisional application

For at least these reasons, Claim 1 is patentable over Kowalski as are Claims 2-9 which depend from Claim 1.

Claim 10 is directed to a method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network and recites the following:

1.   receiving at least one signal;
2.   determining whether said at least one signal is being broadcast by a wireless port of the local area network;
3.   evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast; and
4.   if said at least one signal is being broadcast by a wireless port of the local area network, initiating a connection protocol that is compatible with said wireless port.

As with Claim 1 above, Kowalski fails to teach or suggest (a) evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast and (b) initiating a connection protocol that is compatible with said wireless port. For at least the same reasons Claim 1 is patentable over Kowalski, so are Claim 10 and Claims 11-14 which depend from Claim 10.

B. Ground For Rejection B – Claims 15-20 stand rejected under Section 10 as being unpatentable over US Pub 2003/0081583 to Kowalski.

Claim 15 is directed to a system that includes at least one storage medium that includes instructions for implementing the method of Claim 1. For at least the same reasons Claim 1 is patentable over Kowalski, so are Claim 15 and Claims 16-20 which depend from Claim 15.

C. Ground For Rejection C – Claims 4 and 13 were improperly rejected under Section 103 as being unpatentable over US Pub 2002/0007407 to Kowalski in view of USPN 6,582,700 issued to Pinard.

Claim 4 depends from Claim 1 while Claim 13 depends from Claim 10. For at least the same reasons Claims 1 and 10 are patentable, so are Claims 4 and 13.

For at least the reasons set forth above, the rejections of Claims 1-20 are improper as the Examiner has failed to establish a prima facie case of obviousness under 35 USC §103.

Respectfully submitted,
Travis J. Parry

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February 28, 2007

APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1.   (Previously presented) A method for establishing wireless communication between a computer and a local area network, comprising:

receiving a signal broadcast by at least one wireless port of the local area network;

evaluating said signal to determine a connection protocol type of said at least one wireless port; and

initiating a connection protocol based on said connection protocol type of said at least one wireless port.

2.   (Original) The method of claim 1, further comprising:

receiving signals broadcast by a plurality of wireless ports of the local area network; and

selecting one of said signals.

3.   (Original) The method of claim 2, wherein said evaluating said signal comprises evaluating said selected signal.

4.   (Original) The method of claim 2, wherein said selecting comprises selecting one of said signals based on at least one of a strength and a clarity thereof.

5.   (Original) The method of claim 1, further comprising:

attempting to establish a connection between the computer and said at least one wireless port by way of said connection protocol.

6.   (Original) The method of claim 5, further comprising:

providing the local area network with at least one security identifier upon completion of said establishing said connection.

7.   (Original) The method of claim 5, further comprising:

receiving another signal from another wireless port of the local area network;

evaluating said another signal to determine a type of said another wireless port;

initiating a connection protocol based on said type of said another wireless port; and

attempting to establish a connection between the computer and said another wireless port by way of said connection protocol when said attempting to establish said connection between the computer and said at least one wireless port is not completed.

8.   (Original) The method of claim 7, wherein said receiving said another signal comprises moving the computer to another location.

9.   (Original) The method of claim 5, further comprising:

selecting another local area network with which to connect the computer when said connection between the computer and said at least one wireless port is not established using said connection protocol.

10.   (Previously presented) A method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network, comprising:

receiving at least one signal;

determining whether said at least one signal is being broadcast by a wireless port of the local area network;

evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast; and

if said at least one signal is being broadcast by a wireless port of the local area network, initiating a connection protocol that is compatible with said wireless port.

11.   (Original) The method of claim 10, wherein said determining comprises determining that a plurality of received signals are being broadcast by wireless ports of the local area network.

12.   (Original) The method of claim 11, further comprising:

selecting one of said plurality of received signals.

13.   (Original) The method of claim 12, wherein said selecting comprises:

evaluating at least one of a strength and a clarity of each of said plurality of received signals.

14.   (Original) The method of claim 12, wherein said initiating comprises attempting to establish communication with a wireless port by which said selected signal is being broadcast.

15.   (Previously presented) A workstation configured to select a connection protocol for establishing wireless communication with a local area network, comprising:

at least one processor;

at least one wireless network access device in communication with said at least one processor; and

at least one storage medium configured to communicate with said at least one processor, said at least one storage medium comprising instructions stored in data format for:

causing said at least one wireless network access device to receive at least one signal being broadcast by a wireless port of the local area network and to communicate said at least one signal to said at least one processor in a format recognizable by said at least one processor;

enabling said at least one processor to evaluate said at least one signal to identify a connection protocol type of said wireless port from which said at least one signal was broadcast; and

instructing said at least one processor to select a connection protocol appropriate for establishing communication with said wireless port based on said connection protocol type thereof.

16. (Original) The workstation of claim 15, wherein said at least one storage medium further includes instructions for:

causing said at least one processor to instruct said at least one wireless network access device to initiate said connection protocol; and

if communication is established between said at least one wireless network access device and said wireless port, causing said at least one processor to communicate at least one security identifier to the local area network.

17. (Original) The workstation of claim 16, wherein said instructions cause said at least one processor to automatically communicate said at least one security identifier to the local area network.

18. (Original) The workstation of claim 16, wherein said instructions cause said at least one processor to query a user to enter said at least one security identifier through an input device of the workstation prior to causing said at least one processor to communicate said at least one security identifier to the local area network.

19. (Original) The workstation of claim 15, wherein said at least one storage medium further includes instructions for:

enabling said at least one processor to identify at least one signal that was broadcast by a wireless port of the local area network from a plurality of signals received by said at least one wireless network access device.

20. (Original) The workstation of claim 19, wherein said at least one storage medium further includes instructions for:

causing said at least one processor to select a single signal from a plurality of signals that were broadcast by wireless ports of the local area network.

Evidence Appendix

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.